

1 Lenard E. Schwartz, Trustee  
2 2850 South Jones Boulevard, Suite 1  
3 Las Vegas, Nevada 89146-5308  
4 Telephone: (702) 307-2022  
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*E-FILED ON JANUARY 16, 2008*

5 **UNITED STATES BANKRUPTCY COURT**  
6 **DISTRICT OF NEVADA**

7 In re  
8 JOSHUA SCOTT MITCHELL  
9 STEPHANIE JUDITH MITCHELL,  
10 Debtor.

BK-S-07-16226 LBR  
Chapter 7

**TRUSTEE'S OPPOSITION TO MOTION  
FOR RELIEF FROM AUTOMATIC STAY**

DATE: February 13, 2008  
TIME: 10:00 a.m..

12  
13 Lenard E. Schwartz, Trustee, responds the Motion For Relief From Automatic Stay filed  
14 on the grounds that there is (a) no documentation that the loan owed by the Debtors is owned by  
15 the movant, and (b) there is no documentation that the original lender had complied with the  
16 requirements of the Truth In Lending Act, 15 U.S.C. 1601 et seq. ("TILA") when the loan was  
17 originated.

18 Documentation of ownership of the loan by the movant should be required to prove that  
19 the movant has standing.

20 Documentation of TILA compliance should be required to prove that the movant has right  
21 to foreclose. The penalties for violation of TILA may include (a) retroactively loss the right to  
22 charge interest, fees, and costs on the loan, and (b) in cases of refinancing loans, voiding of the  
23 lien. These penalties may reduce the debt to where there is equity in the property or may eliminate  
24 the alleged lien.

25 DATED: January 16, 2008

/s/ Lenard E. Schwartz

26 Lenard E. Schwartz, Trustee  
27 2850 South Jones Blvd., Suite 1  
28 Las Vegas NV 89146

LENARDE. SCHWARTZ, TRUSTEE  
2850 South Jones Boulevard, Suite 1  
Las Vegas, Nevada 89146-5308  
Tel: (702) 307-2025 • Fax: (702) 974-0976

## \*\* 362 INFORMATION SHEET \*\*

Joshua Scott Mitchell and Stephanie Judith Mitchell  
DEBTOR

BK-S-07-16226-LBR

BNKR. NO.

MOTION NO.

Mortgage Electronic Registration Systems, Inc., Solely as  
Nominee for Plaza Home Mortgage, Inc., its successors  
and/or assigns  
MOVANT

CHAPTER: 7

PROPERTY INVOLVED IN THIS MOTION: 4247 Jordanville Street, Las Vegas, Nevada 89129

NOTICE SERVED ON: DEBTOR(S) \_\_\_\_\_;  
DEBTOR'S(S)' COUNSEL \_\_\_\_\_; TRUSTEE \_\_\_\_\_

DATE OF SERVICE: \_\_\_\_\_

MOVING PARTY'S CONTENTIONS:

The EXTENT and PRIORITY of LIENS:

1<sup>st</sup>. \$388,859.372<sup>nd</sup>. \$95,928.003<sup>rd</sup>. \$107.294<sup>th</sup>. \_\_\_\_\_

Other: \_\_\_\_\_

Total Encumbrances: \$484,894.66

APPRAISAL or OPINION as to VALUE: \$480,000.00

DEBTOR'S CONTENTIONS:

The EXTENT and PRIORITY of LIENS:

1<sup>st</sup>. \$ \_\_\_\_\_2<sup>nd</sup>. \_\_\_\_\_3<sup>rd</sup>. \_\_\_\_\_4<sup>th</sup>. \_\_\_\_\_

Other: \_\_\_\_\_

Total Encumbrances: \$ \_\_\_\_\_

APPRAISAL or OPINION as to VALUE: \_\_\_\_\_

TERMS OF MOVANT'S CONTRACT  
WITH THE DEBTOR

Amount of Note: \$384,000.00

Interest Rate: 7.375%

Duration: 30 Years

Payment per Month: \$1,706.46

Date of Default: September 1, 2007

Amount in Arrears: \$8,554.80

Date of Notice of Default (if recorded): \_\_\_\_\_

SPECIAL CIRCUMSTANCES:

I hereby certify that an attempt has been made to confer with debtor(s) or  
debtor(s)' counsel, that more than two (2) business days have expired,  
and that after sincere effort to do so, counsel has been unable to resolve  
this matter without court action.

SUBMITTED BY: /s/ Eddie R. Jimenez

525 E. Main Street; P.O. Box 12289  
El Cajon, CA 92022-2289  
(702) 413-9692  
NV Bar #10376

DEBTOR'S OFFER OF "ADEQUATE  
PROTECTION"  
FOR MOVANT

SPECIAL CIRCUMSTANCES:

SUBMITTED BY:

Standing and TILA questions

Signature: \_\_\_\_\_

EXHIBIT A